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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In the Application of: ) Group Art Unit: 2859  
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MISIC, George J. )  
)  
Filed: November 14, 2003 ) Examiner: To Be Assigned  
)  
Serial No.: 10/714,509 ) Docket No.: MR/97-001.D.C.C.C1  
)  
Confirmation No. 9833 )  
)  
For: TRANSMIT/RECEIVE PHASED ARRAY )  
COIL SYSTEM ) Date: June 7, 2004

COMMISSIONER FOR PATENTS  
P.O. Box 1450  
ALEXANDRIA, VA 22313-1450

INFORMATION DISCLOSURE STATEMENT  
AND  
NOTICE OF ONGOING LITIGATION UNDER MPEP 2001.06(c) INVOLVING U.S.  
PATENT 6,396,273

Dear Sir/Madam:

Applicant submits this *Information Disclosure Statement* (IDS) to comply with the duty of disclosure as codified in 37 C.F.R. §1.56. Submitted before the mailing of a first Office Action on the merits, this IDS is thus filed with the United States Patent and Trademark Office (USPTO) in accordance with 37 C.F.R. §1.97(b)(3). This IDS contains, and/or is accompanied by, the information required by 37 C.F.R. §1.98.

Applicant requests the Examiner to consider each of the references listed on FORMS PTO-1449 (attached hereto), and to enter the same into the record of this application for patent. The Examiner is advised, however, that all except three of the references cited on the attached FORMS PTO-1449 were disclosed and made of record in the parent application for patent (i.e., U.S. Application 10/151,491,

now U.S. Patent 6,714,013), the grandparent application for patent (i.e., U.S. Application 09/776,132, now U.S. Patent 6,396,273), the great-grandparent application (i.e., U.S. Application 09/512,093, now abandoned), or the great<sup>2</sup>-grandparent application for patent (i.e., U.S. Application 08/979,842, now U.S. Patent 6,040,697). Copies of those earlier-submitted references can be found in the corresponding application files, and copies of the three new references are provided herewith and introduced below.

**I. Notice of Pending Litigation Related To U.S. Patent 6,396,273, Pursuant To MPEP §2001.06(c)**

As he did with the Information Disclosure Statements filed during prosecution of the aforementioned parent application, Applicant hereby notifies the USPTO of litigation relating to U.S. Patent 6,396,273 ("273 patent"), which is the patent that issued from the aforementioned grandparent application. This notice is provided pursuant to MPEP §2001.06(c).

The litigation was instigated by Medrad, Inc. ("Medrad"), the assignee of the present and the aforementioned prior applications, against MRI Devices Corporation ("MRIDC"): Medrad, Inc. v. MRI Devices Corporation, filed in the United States District Court for the Western District of Pennsylvania on November 25, 2002, under Civil Action No. 02-2044 ("the Patent Action").

At the start of this Patent Action, Medrad filed a Motion for a Preliminary Injunction by which it seeks to enjoin MRIDC from

making, using and selling a multi-coil transmit-receive array ("MRIDC product") that Medrad believes is covered by one or more claims of the '273 patent. In its defense, MRIDC alleges that the '273 patent is invalid and unenforceable, and it also denies infringement of its claims. A hearing on the Motion For Preliminary Injunction ("Hearing") was convened between April 28, 2003, and May 1, 2003 before Magistrate Judge Robert C. Mitchell ("Magistrate Judge"). In a *Memorandum Order* issued 13 August 2003, U.S. District Judge McVerry adopted the recommendations that the Magistrate Judge made in a *Report and Recommendation* (R&R) dated 29 May 2003. In that *Report and Recommendation*, the Magistrate Judge recommended that (1) Medrad's motion for a preliminary injunction be denied; (2) MRIDC's motion for summary judgment to invalidate claims 1, 2, 3, 5, 16 and 23 of the '273 patent be granted; and (3) MRIDC's motion for summary judgment of noninfringement of the '273 patent be dismissed as moot.

Two days before District Court Judge McVerry issued his *Memorandum Order* adopting the R&R, the USPTO allowed the claims of the aforementioned parent application<sup>1</sup>. Several of those allowed claims are similar to those at issue in the Patent Action. Moreover, the claims of the parent application were allowed over the (alleged) prior art cited in the R&R and in all of MRIDC's briefs

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<sup>1</sup> This application (i.e., U.S. Application 10/151,491) has since been granted as U.S. Patent 6,714,013.

filed in the Patent Action, all of which were submitted to the USPTO by Applicant in the aforementioned parent application.

Medrad has since filed an appeal with the Court of Appeals for the Federal Circuit (CAFC), CAFC Case No. 04-1134. Specifically, on 23 February 2004, Medrad filed an appeal brief in which it (1) summarizes the facts of the case; and (2) argues that the District Court erred (a) in its claim constructions and in its rulings on invalidity of certain claims in the '273 patent and (b) in its decision to deny Medrad's Motion for a Preliminary Injunction. On 29 April 2004, MRIDC filed a response brief in which, among other things, it (1) summarizes the facts of the case from its point of view; and (2) presents arguments in which it asserts that the District Court was correct in its rulings on the invalidity of certain claims and in its denial of Medrad's Motion for a Preliminary Injunction. On 28 May 2004, Medrad filed a reply brief in which, among other things, it (1) replies to MRIDC's statements of the facts of the case; and (2) presents arguments supporting its interpretation of certain terms in the claims of the '273 patent.

## **II. References and Litigation Documents**

Listed below are the three new references (i.e., litigation documents) recently filed with the CAFC in the Patent Action. They are provided to convey to the Examiner the subject matter of the

lawsuit, and particularly to update the Examiner on the latest developments in the Patent Action.

1. Brief of Plaintiff-Appellant Medrad, Inc. ("*Medrad Appellate Brief*);
2. Brief of Defendant-Appellee MRI Devices Corporation ("*MRIDC Response Brief*); and
3. Reply Brief of Plaintiff-Appellant Medrad, Inc. ("*Medrad Reply Brief*").

These documents are identified in the accompanying FORMS PTO-1449 as items DF, DG, and DH, respectively.

#### CONCLUSION

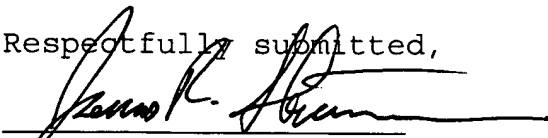
This IDS discloses information concerning pending litigation relating to the '273 patent, a patent to which the above-identified application claims priority. Because such information may be deemed relevant to the patentability of the pending application, the new documents listed above are now made of record to assist the USPTO in its examination. The Examiner is respectfully requested under 37 C.F.R. §1.97(d) to consider these new documents fully --along with those submitted with the Information Disclosure Statements filed in connection with the aforementioned prior applications-- and to independently ascertain their relevance to the pending application.

Applicant respectfully asks the Examiner to initial the attached PTO-1449 forms in the places indicated and to return copies of those initialed forms to the undersigned as evidence that the

submitted documents were considered during examination of the pending application at issue.

If the Examiner has any questions regarding this *IDS*, he/she is invited to call the undersigned at the phone number listed below.

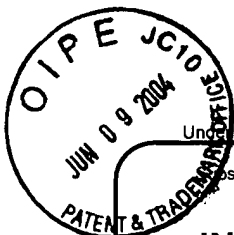
Respectfully submitted,



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PTO/SB/08A (08-03)

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Institute for form 1449/PTO

**INFORMATION DISCLOSURE  
STATEMENT BY APPLICANT**

(Use as many sheets as necessary)

**Complete if Known**

Application Number	10/714,509
Filing Date	11/14/2003
First Named Inventor	George J. Misic
Art Unit	2859
Examiner Name	
Attorney Docket Number	MR/97-001.D.C.C.C1

Sheet 1 of 8

**U. S. PATENT DOCUMENTS**

Examiner Initials*	Cite No. <sup>1</sup>	Document Number	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear
		Number-Kind Code <sup>2</sup> (if known)			
	AA	US- 4,111,270	10/25/1983	Damadian	
	AB	US- 4,467,282	8/21/1984	Siebold	
	AC	US- 4,680,548	7/14/1987	Edelstein, et al.	
	AD	US- 4,692,705	9/8/1987	Hayes	
	AE	US- 4,707,664	11/17/1987	Fehn, et al.	
	AF	US- 4,793,356	12/27/1988	Misic, et al.	
	AG	US- 4,825,162	4/25/1989	Roemer, et al.	
	AH	US- 4,923,459	5/8/1990	Nambu	
	AI	US- 5,179,332	1/12/1993	Kang	
	AJ	US- 5,258,717	11/2/1993	Misic, et al.	
	AK	US- 5,374,890	12/20/1994	Zou, et al.	
	AL	US- 5,394,087	2/28/1995	Molyneaux	
	AM	US- 5,483,158	1/9/1996	van Heteren, et al.	
	AN	US- 5,543,711	8/6/1996	Srinivasan, et al.	
	AO	US- 5,551,430	9/3/1996	Blakeley, et al.	
	AP	US- 5,559,434	9/24/1996	Takahashi, et al.	
	AQ	US- 5,565,779	10/15/1996	Arakawa, et al.	
	AR	US- 5,578,925	11/26/1996	Molyneaux et al.	
	AS	US- 5,602,479	2/11/1997	Srinivasan, et al.	

**FOREIGN PATENT DOCUMENTS**

Examiner Initials*	Cite No. <sup>1</sup>	Foreign Patent Document	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages Or Relevant Figures Appear	T <sup>6</sup>
		Country Code <sup>3</sup> Number <sup>4</sup> Kind Code <sup>5</sup> (if known)				
	AT	EP 0 758 091	2/12/1997	Europe		
	AU	WO 98/37438	8/27/1998	WIPO		

Examiner  
SignatureDate  
Considered

\*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant. <sup>1</sup> Applicant's unique citation designation number (optional). <sup>2</sup> See Kinds Codes of USPTO Patent Documents at [www.uspto.gov](http://www.uspto.gov) or MPEP 901.04. <sup>3</sup> Enter Office that issued the document, by the two-letter code (WIPO Standard ST.3). <sup>4</sup> For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document. <sup>5</sup> Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST.16 if possible. <sup>6</sup> Applicant is to place a check mark here if English language Translation is attached.

This collection of information is required by 37 CFR 1.97 and 1.98. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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(Use as many sheets as necessary)

**Complete if Known**

Application Number	10/714,509
Filing Date	11/14/2003
First Named Inventor	George J. Misis
Art Unit	2859
Examiner Name	
Attorney Docket Number	MR/97-001.D.C.C.C1

Sheet **2** of **8****U. S. PATENT DOCUMENTS**

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		Number-Kind Code <sup>2</sup> (if known)			
	AV	US- 5,610,521	3/11/1997	Zou, et al.	
	AW	US- 5,621,323	4/15/1997	Larsen	
	AX	US- 5,646,531	7/8/1997	Renz	
	AY	US- 5,664,568	9/9/1997	Srinivasan, et al.	
	AZ	US- 5,969,449	12/9/1997	Boskamp	
	BA	US- 5,998,999	12/7/1999	Richard, et al.	
	BB	US- 6,040,697	3/21/2000	Misis	
	BC	US- 6,137,291	10/24/2000	Szumowski, et al.	
	BD	US- 6,150,816	11/21/2000	Srinivasan	
	BE	US- 6,177,797	1/23/2001	Srinivasan	
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NON PATENT LITERATURE DOCUMENTS			
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	BF	Roemer, P. B., et al., "The NMR Phased Array," Magnetic Resonance in Medicine, Vol. 16, Copyright 1990, Academic Press, Inc., Pages 192-225.	
	BG	Jin, J., et al., "An Innovative Design of Combined Transmit/Receive RF Coils for MR Imaging," Department of Electrical and Computer Engineering, University of Illinois at Urbana-Champaign, Urbana, IL, Philips Medical Systems North America, Shelton, CT, pg. 1116, XP-002092172 (August 1994).	
	BH	Requardt, H., et al., "Switched Array Coils," Magnetic Resonance in Medicine, Vol. 13, March 1990, No. 3., Pages 385-397, XP000132470.	
	BI	Duensing, R., et al., "A Continuously Variable Field of View Surface Coil," Magnetic Resonance in Medicine, Vol. 13, No. 3, March 1990, Pages 378-384, XP000132469.	
	BJ	"Knee Foot and Ankle Array," produced and sold by MRI Devices Corporation of Waukesha, WI under Model No. KFA, Product Data, CE0413 (July 2000).	
	BK	International Search Report for Counterpart PCT Application No. PCT/US98/23454.	
	BL	Memorandum Order, Medrad, Inc. vs. MRI Devices Corporation, Civil Action No. 02-2044, August 13, 2003.	
	BM	Transcript of Testimony of Dr. Arne Reykowski at the Hearing ("Reykowski Transcript").	
	BN	Deposition of Dr. Gregor Adriany ("Adriany Deposition").	
	BO	Expert Report of Dr. Peter B. Roemer Concerning Noninfringement of Claims 1,2,3,5,16 and 23 of U.S. Patent No. 6,396,273 ("Roemer Noninfringement Report").	

Examiner Signature		Date Considered	
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		Filing Date	11/14/2003
		First Named Inventor	George J. Misic
		Art Unit	2859
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Sheet 4 of 8	Attorney Docket Number		MR/97-001.D.C.C.C1

NON PATENT LITERATURE DOCUMENTS			
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	BP	Expert Report of Kimberly A. Moore ("Moore Report").	
	BQ	MRI Devices' Motion for Summary Judgment of Noninfringement of the '273 Patent ("MRIDC's SJ Motion of Noninfringement").	
	BR	MRI Devices' Memorandum Supporting Its Motion for Summary Judgment of Noninfringement of the '273 Patent ("MRIDC's Memo Supporting SJ Motion of Noninfringement").	
	BS	MRI Devices' Motion for Summary Judgment to Invalidate Claims 1,2,3,5,16 and 23 of U.S. Patent No. 6,396,273 ("MRIDC's SJ Motion to Invalidate").	
	BT	MRI Devices' Memorandum Supporting Its Motion for Summary Judgment to Invalidate Claims 1,2,3,5,16 and 23 of U. S. Patent No. 6,396,273 (MRIDC's Memo Supporting Invalidity Motion").	
	BU	Appendix In Support of MRI Devices' Motion for Summary Judgment to Invalidate Claims 1,2,3,5,16 and 23 of U.S. Patent No. 6,396,273 ("MRIDC's Appendix to Invalidity Motion").	
	BV	Medrad's Opposition To MRI Devices' Motion For Partial Summary Judgment To Invalidate Certain Claims Of U.S. Patent No. 6,396,273 ("Medrad's Opposition to MRIDC's SJ Motion to Invalidate").	
	BW	MRI Devices' Reply Supporting Its Motion For Summary Judgment to Invalidate All Asserted Claims of U. S. Patent No. 6,396,273 ("MRIDC's Reply").	
	BX	Appendix in Support of MRI Devices' Reply Supporting its Motion for Summary Judgment to Invalidate All Asserted Claims of U. S. Patent No. 6,396,273 ("MRIDC's Appendix to Reply").	
	BY	Report and Recommendation of Magistrate Judge to Federal District Judge Terrence F. McVerry ("Magistrate's Report and Recommendation").	

Examiner Signature		Date Considered	
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<sup>1</sup> Applicant's unique citation designation number (optional). <sup>2</sup> Applicant is to place a check mark here if English language Translation is attached.

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Sheet 5	of 8	Attorney Docket Number	MR/97-001.D.C.C.C1

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	BZ	Plaintiff Medrad's Supplemental Responses to Defendant's First Set of Interrogatories (3/26/2003).	
	CA	Expert Report of Dr. Cecil E. Hayes Pursuant to Rule 26(a)(2)(B) of the Federal Rules of Civil Procedure (3/31/2003).	
	CB	Expert Report of Kenneth W. Belt Pursuant to Rule 26(a)(2)(B) of the Federal Rules of Civil Procedure (3/31/2003).	
	CC	Adriany, G., et al., "A Transmit/Receive Quadrature Birdcage Array Coil for 4 Tesla," Proceedings of the International Society for Magnetic Resonance in Medicine, Fifth Scientific Meeting and Exhibition, Volume 1, Pg. 177 (April 12-18, 1997).	
	CD	Adriany, G., et al., "A Transmit/Receive Quadrature Birdcage Array for 4 Tesla," Presentation to the International Society for Magnetic Resonance in Medicine, Fifth Scientific Meeting and Exhibition, Vancouver, B.C., Canada (April 12-18, 1997).	
	CE	Fitzsimmons, Jeffrey R., et al. "Radio Frequency Coil Development for High Field Whole Body MRI/MRS," High Field Workshop (March 7, 1997).	
	CF	Fitzsimmons, Jeffrey R., et al. "Very High Frequency Transceiver Phased Array RF Coil Development for Neuroimaging of the Human Cortex and Spinal Cord at 3 Tesla," NIH Grant Application (February 1, 1997).	
	CG	Reykowski, A., et al., "Novel Two Channel Volume Array Design for Angiography of the Head and Neck," Proceedings of the Society of Magnetic Resonance, Second Meeting, Volume 1, Pg. 216 (August 6-12, 1994).	
	CH	Reykowski, A., Theory and Design of Synthesis Array Coils for Magnetic Resonance Imaging, (see pp. 162-191), Dissertation submitted to the Office of Graduate Studies of Texas A&M University (December 1996).	
	CI	Szumowski, J., et al., "A Telescopic Phased Array Coil for MRA of the Lower Extremities," Proceedings of the Society of Magnetic Resonance, Volume 2 (August 19-25, 1995).	

Examiner Signature		Date Considered	
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Substitute for form 1449/PTO  <b>INFORMATION DISCLOSURE STATEMENT BY APPLICANT</b>  <i>(Use as many sheets as necessary)</i>		<b>Complete if Known</b>	
		Application Number	10/714,509
		Filing Date	11/14/2003
		First Named Inventor	George J. Misic
		Art Unit	2859
		Examiner Name	
Sheet 6	of 8	Attorney Docket Number	MR/97-001.D.C.C.C1

NON PATENT LITERATURE DOCUMENTS			
Examiner Initials*	Cite No. <sup>1</sup>	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published.	T <sup>2</sup>
	CJ	Merkle, H., et al., "A Dual-Quadrature, Transmit/Receive Surface Coil Design for Brain Studies at High Fields," International Society of Magnetic Resonance in Medicine, Pg. 962 (1995).	
	CK	Monroe, J.W., et al., "Phased Array Coils for Upper Extremity MRA," MRM 33: 224-229 (1995).	
	CL	Reykowski, A., "Transmit-Receive Array for Angiography of the Head and Neck," Unpublished Paper (1995).	
	CM	Lian J., et al., "Detachable RF Coil for Clinical Breast Imaging," Proceedings of the Society of Magnetic Resonance, Volume 1 (August 19-25, 1995).	
	CN	COMPLAINT, Civil Action No. 02-2044, Medrad, Inc., (Plaintiff) v. MRI Devices Corporation (Defendant), Patent Infringement of Medrad's Patent USPN 6,396,273 (November 25, 2002).	
	CO	ANSWER, Civil Action No. 02-2044 (December 16, 2002).	
	CP	MRI DEVICES CORPORATION'S RESPONSE TO MEDRAD'S FIRST SET OF INTERROGATORIES, Civil Action No. 02-2044 (January 20, 2002).	
	CQ	PLAINTIFF MEDRAD'S RESPONSES TO DEFENDANT'S FIRST SET OF INTERROGATORIES, Civil Action No. 02-2044 (January 20, 2003).	
	CR	MEDRAD'S RESPONSES AND OBJECTIONS TO DEFENDANT'S SECOND SET OF INTERROGATORIES, Civil Action 02-2044 (January 29, 2003)	
	CS	MEDRAD'S RESPONSES AND OBJECTIONS TO DEFENDANT'S THIRD SET OF INTERROGATORIES, Civil Action 02-2044 (January 30, 2003).	

Examiner Signature		Date Considered	
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<sup>1</sup> Applicant's unique citation designation number (optional). <sup>2</sup> Applicant is to place a check mark here if English language Translation is attached.

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	CT	PLAINTIFF MEDRAD'S RESPONSES TO DEFENDANT'S FIFTH SET OF INTERROGATORIES, Civil Action No. 02-2044 (February 21, 2003).	
	CU	MRI DEVICES CORPORATION'S SUPPLEMENTAL RESPONSE TO MEDRAD'S INTERROGATORY NO. 11, Civil Action No. 02-2044 (February 21, 2003).	
	CV	MEDRAD'S SUPPLEMENTAL RESPONSES AND OBJECTIONS TO DEFENDANTS' FIRST SET OF REQUESTS FOR ADMISSIONS, Civil Action No. 02-2044 (February 24, 2003).	
	CW	MEDRAD'S OBJECTIONS/RESPONSES TO DEFENDANT'S FOURTH SET OF INTERROGATORIES, Civil Action No. 02-2044 (March 4, 2003).	
	CX	Duensing, G.R., et al., "Transceive Phased Array Designed for Imaging at 3T," Presentation at the High Field Imaging Workshop (March 7, 1997).	
	CY	Reykowski, A., et al., "Novel Two Channel Volume Array Design for Angiography of the Head and Neck," Proceedings of the Society of Magnetic Resonance, Second Meeting, Volume 1, Pg. 216 (August 6-12, 1994).	
	CZ	MRI DEVICES CORPORATION'S SECOND SUPPLEMENTAL RESPONSE TO MEDRAD'S INTERROGATORY NO. II, Civil Action 02-2044 (March 10, 2003).	
	DA	EXPERT REPORT OF DR. PETER B. ROEMER CONCERNING INVALIDITY OF CLAIMS 1, 2, 3, 5, 16 AND 23 OF U.S. PATENT 6,396,273, Civil Action 02-2044 (March 14, 2003).	
	DB	"Optimized Birdcage Resonators for Simultaneous MRI of Head and Neck," Proceedings of the Society of Magnetic Resonance, p. 1349 (1993).	
	DC	"Surface Coil Proton MR Imaging at 2T," Radiology, 161, No. 1, pgs. 251-5, (Oct. 1986).	

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	DD	"Spatial Localization in 31P and 13C NMR Spectroscopy in vivo Using Surface Coils," Journal of Magnetic Resonance in Medicine, 1: 410-413 (1984).	
	DE	"Comparison of Linear and Circular Polarization for Magnetic Resonance Imaging," Journal of Magnetic Resonance 64, 255-270 (1985).	
	DF	"Brief of Plaintiff-Appellant Medrad Inc.," U.S. Court of Appeals for the Federal Circuit Case No. 04-1134.	
	DG	"Brief of Defendant-Appellee MRI Devices Corporation," U.S. Court of Appeals for the Federal Circuit Case No. 04-1134.	
	DH	"Reply Brief of Plaintiff-Appellant Medrad, Inc.," U.S. Court of Appeals for the Federal Circuit Case No. 04-1134	

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